

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 2586**

March 16, 2014

**SUMMARY OF BILL:** Creates a new Class E felony for vehicular homicide that is caused by a driver's ability to drive being impaired because of fatigue. Authorizes evidence that a person fell asleep while driving or had been without sleep for 24 or more consecutive hours to constitute prima facie evidence that such person's ability to drive was impaired by fatigue.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$63,400/Incarceration\***

Assumptions:


- According to the Administrative Office of the Courts (AOC), there has been an average of 339 convictions for reckless homicide over the last five years. It is assumed that one percent ( $339 \times .01 = 3.39$ ) of these was caused by the reckless operation of a vehicle because the driver was fatigued.
- The proposed legislation would also make these offenders subject to prosecution for vehicular homicide under the proposed legislation. It is assumed that each offender will be convicted for vehicular homicide and will serve the sentence consecutive to the sentence for reckless homicide.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2014 is \$66.29.
- The average time served for a Class E felony is 1.31 years.
- According to the DOC, 42.52 percent of offenders will re-offend within three years of their release. A recidivism discount of 42.52 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ( $3 \text{ offenders} \times .4252 = 1 \text{ offenders}$ ).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two offenders [ $3 \text{ offenders} - 1 \text{ (recidivism discount)}$ ] serving an additional 1.31 years (478.48 days) for a total of \$31,718.44 ( $\$66.29 \times 478.48 \text{ days}$ ). The cost for two offenders is \$63,436.88 ( $\$31,718.44 \times 2$ ).

- The proposed legislation only creates two new felonies per year. It is assumed that the courts, district attorneys, and public defenders can accommodate any impact within existing resources.

*\*Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/trm